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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,875	07/16/2003	Jesse D. Wolfe	IL-10387B	1737
7590	04/02/2004			
Eddie E. Scott Attorney P.O. Box 808 L-703 Livermore, CA 94551			EXAMINER NADAV, ORI	
			ART UNIT 2811	PAPER NUMBER
DATE MAILED: 04/02/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/621,875	Applicant(s) WOLFE ET AL.
	Examiner ori nadav	Art Unit 2811

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 16 July 2003.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-13 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 16 July 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/16/03</u> . | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
6) <input type="checkbox"/> Other: _____ |
|--|---|

DETAILED ACTION***Drawings***

The drawings are objected to because figure 1G should be labeled as figure 1C.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Carey et al. (5,817,550).

Regarding claim 1, Carey et al. teach in figures 1 and 2 and related text a semiconductor device comprising a layer fabricated with pulsed radiation annealing 12, a layer that can be damaged by said pulsed radiation 10, operatively connected to said layer fabricated with pulsed radiation annealing, and a reflective layer 11, operatively connected to said layer that can be damaged by said pulsed radiation, for reflecting said pulsed radiation.

Regarding claim 2, Carey et al. teach in figures 1 and 2 and related text a layer that can be damaged by said pulsed radiation is low temperature plastic.

Regarding claim 3, Carey et al. teach in figures 1 and 2 and related text a reflective layer is single layer or multiple layers for narrowband or broadband reflection.

Regarding claims 4 and 12, Carey et al. teach in figures 1 and 2 and related text a reflective layer is a narrow band reflectance coating.

Regarding claim 5, Carey et al. teach in figures 1 and 2 and related text a layer fabricated with pulsed radiation annealing is fabricated with high intensity radiation sources with a short wavelength that will be readily absorbed.

Regarding claims 6 and 11, Carey et al. teach in figures 1 and 2 and related text high intensity radiation sources are pulsed UV excimer lasers, frequency doubled NIWAG lasers, UV flashlamps, or X-ray sources.

Regarding claim 7, Carey et al. teach in figures 1 and 2 and related text a layer fabricated with pulsed radiation annealing is a silicon film that is crystallized by said pulsed radiation annealing.

Regarding claim 8, Carey et al. teach in figures 1 and 2 and related text said layer fabricated with pulsed radiation annealing is a silicon film that is doped by said pulsed radiation annealing.

Regarding claims 9 and 13, Carey et al. teach in figures 1,2 and 3A and related text an insulating layer 11, 16 operatively connected to said layer that can be damaged by said pulsed radiation for reflecting said pulsed radiation.

Regarding claim 10, Carey et al. teach in figures 1 and 2 and related text a layer that can be damaged by said pulsed radiation is low temperature plastic, said reflective layer is single layer or multiple layers for narrowband or broadband reflection, and said layer fabricated with pulsed radiation annealing is fabricated with high intensity radiation sources.

Regarding the process limitations recited in claims 1, 5-8 and 10-11 ("a layer fabricated with pulsed radiation annealing", "a layer fabricated with pulsed radiation annealing is fabricated with high intensity radiation sources with a short wavelength that will be readily absorbed", "high intensity radiation sources are pulsed UV excimer lasers, frequency doubled NIWAG lasers, UV flashlamps, or X-ray sources", "a silicon film that is crystallized by said pulsed radiation annealing", "a silicon film that is doped by said pulsed radiation annealing" and "a layer fabricated with pulsed radiation annealing is fabricated with high intensity radiation sources"), these would not carry patentable

weight in this claim drawn to a structure, because distinct structure is not necessarily produced. Note that a "product by process" claim is directed to the product per se, no matter how actually made, *In re Hirao*, 190 USPQ 15 at 17 (footnote 3). See also *In re Brown*, 173 USPQ 685; *In re Luck*, 177 USPQ 523; *In re Fessmann*, 180 USPQ 324; *In re Avery*, 186 USPQ 161; *In re Wertheim*, 191 USPQ 90 (209 USPQ 554 does not deal with this issue); and *In re Marosi et al.*, 218 USPQ 289, all of which make it clear that it is the patentability of the final product per se which must be determined in a "product by process" claim, and not the patentability of the process, and that an old or obvious product produced by a new method is not patentable as a product, whether claimed in "product by process" claims or not. Note that the applicant has the burden of proof in such cases, as the above case law makes clear.

Papers related to this application may be submitted to Technology center (TC) 2800 by facsimile transmission. Papers should be faxed to TC 2800 via the TC 2800 Fax center located in Crystal Plaza 4, room 4-C23. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Group 2811 Fax Center number is (703) 308-7722 and 308-7724. The Group 2811 Fax Center is to be used only for papers related to Group 2811 applications.

Any inquiry concerning this communication or any earlier communication from the Examiner should be directed to *Examiner Nadav* whose telephone number is **(571) 272-1660**. The Examiner is in the Office generally between the hours of 7 AM to 4 PM (Eastern Standard Time) Monday through Friday.

Any inquiry of a general nature or relating to the status of this application should be directed to the **Technology Center Receptionists** whose telephone number is **308-0956**



O.N.
3/31/04

ORI NADAV
PATENT EXAMINER
TECHNOLOGY CENTER 2800